

DEBRA C. ANDERSON, Appellant  
and  
DEPARTMENT OF THE NAVY, NAVAL  
WEAPONS CENTER, China Lake, CA,  
Employer

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Docket No. 03-2174  
Issued: February 3, 2004

### Case Submitted on the Record

Before:  
DAVID S. GERSON, Alternate Member  
WILLIE T.C. THOMAS, Alternate Member  
A. PETER KANJORSKI, Alternate Member

On September 8, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated July 29, 2003. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue on appeal is whether appellant has established entitlement to intermittent wage-loss compensation for the period from April 13, 1994 to September 6, 2001.

On November 24, 2000 appellant, then a 40-year-old visual information assistant, filed an occupational disease claim alleging that she sustained an injury as a result of exposure to psychological stress due to factors of her federal employment. Appellant indicated that she first became aware of the disease or illness on December 15, 1992 and realized that it was caused by her employment on October 11, 2000. Appellant missed work from September 26 to

November 13, 2000 and continued to work with intermittent time off for scheduled appointments.

Appellant provided several disability slips from Dr. T. Jothikumar, Board-certified in anatomical and clinical pathology, dated September 26, 2000, in which he indicated that appellant had extreme stress with hypertension and migraines and advised her to take off one week from work. Appellant also presented an October 3, 2000 disability certificate, in which Dr. Jothikumar indicated that she stay off work until her appointment the next day, with Dr. Gary Freedman, a Board-certified psychiatrist. In a November 8, 2000 report, Dr. Lawrence J. Coates, a psychologist, indicated that appellant was currently under his care for depression and was unable to work.<sup>1</sup> The psychiatrist placed appellant off work until Monday, November 13, 2000.

By letter dated December 18, 2001, the Office referred appellant along with a statement of accepted facts and a copy of the medical record to Dr. Karen Cunningham, a Board-certified psychiatrist, for a second opinion evaluation.<sup>2</sup> In the statement of accepted facts, the Office indicated that appellant missed work from September 26 to November 13, 2000, as a result of the emotional condition claimed. In a January 15, 2002 report, Dr. Cunningham diagnosed major depression and determined that it was proximately caused by factors of appellant's employment. On January 30, 2002 the Office accepted appellant's claim for major depression.

The record reflects that appellant subsequently filed a recurrence claim on March 10, 2002 for a recurrence of disability on March 5, 2002.<sup>3</sup>

On June 11, 2003 appellant requested leave buy back for intermittent dates from April 13, 1994 to September 6, 2001.<sup>4</sup> In an e-mail message from Mary Wedel to Susan Haynes dated March 4, 2002, Barbara Jubrey, an administrative officer, indicated that appellant had worked full time from May 2001 to the present with no time off due to stress. She noted that appellant had taken occasional time off due to routine sick and annual leave. Appellant submitted a rebuttal to this statement.

By letter dated June 16, 2003, the Office advised appellant of the additional factual and medical evidence needed to establish her claim.

In support of her claim, appellant submitted a July 8, 2003 response, in which she indicated that 15 days was unreasonable to obtain the requested information from her physician. She also indicated that her treating physician had since moved and left no forwarding address. Additionally, she provided additional requests for leave buy back subsequent to September 6, 2001. However, no additional medical evidence was provided.

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<sup>1</sup> His letter head indicates that he is a licensed psychologist.

<sup>2</sup> There is also a December 19, 2001 letter to appellant.

<sup>3</sup> The Office has not rendered a decision with respect to the recurrence claim.

<sup>4</sup> The total hours claimed for leave buy back were 409 hours.

In a decision dated July 29, 2003, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish work-related disability from April 13, 1994 to September 6, 2001.

### **LEGAL PRECEDENT**

With respect to claimed disability for medical treatment, section 8103 of the Federal Employees' Compensation Act provides for medical expenses, along with transportation and other expenses incidental to securing medical care, for injuries.<sup>5</sup> Appellant would be entitled to compensation for any time missed from work due to medical treatment for an employment-related condition.<sup>6</sup> However, the Office's obligation to pay for medical expenses and expenses incidental to obtaining medical care, such as loss of wages, extends only to expenses incurred for treatment of the effects of any employment-related condition. Appellant has the burden of proof, which includes the necessity to submit supporting rationalized medical evidence.<sup>7</sup>

### **ANALYSIS**

In the instant case, appellant has not submitted any medical evidence sufficient to establish that she was unable to perform her work duties for any of the periods, for which she claimed compensation, with one exception. There is medical documentation pertaining to the time period from September 26 to October 4, 2000 and November 8 to 13, 2000.

As noted above, however, appellant is entitled to compensation for time missed from work to undergo medical treatment for an employment-related condition.<sup>8</sup> The record reveals that the Office accepted that appellant missed time from work during the time period from September 26 to November 13, 2000, as a result of the claimed emotional condition. Appellant provided documentation to support her missed time from work for the following dates. In a report dated September 26, 2000, Dr. Jothikumar examined her for extreme stress and advised taking off one week of work. Appellant also provided an October 3, 2000 report, in which Dr. Jothikumar advised her to stay off work until her appointment with Dr. Freedman the next day. Additionally, Dr. Coates' November 8, 2000 report, placing appellant off work due to depression until November 13, 2000, is sufficient to establish that appellant underwent medical treatment on the above-listed dates due to her accepted employment injury. Furthermore, the second opinion physician, Dr. Cunningham, determined that appellant's emotional condition was caused by her employment for the above-referenced time frames. Appellant, therefore, is entitled to compensation for the time she spent on these days undergoing medical treatment and being advised to stay off work due to her condition. The Office's July 29, 2003 decision will be modified to reflect this entitlement.

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<sup>5</sup> 5 U.S.C. § 8103(a).

<sup>6</sup> *Vincent E. Washington*, 40 ECAB 1242 (1989).

<sup>7</sup> *Dorothy J. Bell*, 47 ECAB 624 (1996).

<sup>8</sup> *See Charles E. Robinson*, 47 ECAB 536 (1996).

### **CONCLUSION**

The Board finds that appellant has established entitlement to wage-loss compensation for time lost from work due to medical appointments and time off from September 26 to October 4, 2000 and November 8 to 13, 2000. However, appellant has not established entitlement to compensation for the other dates claimed from April 13, 1994 to September 6, 2001.

### **ORDER**

**IT IS HERBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated July 29, 2003 is modified to reflect entitlement to compensation for the additional dates of September 26 to October 4 and November 8 to 13, 2000 and affirmed as modified.

Issued: February 3, 2004  
Washington, DC

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member